

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ANTHONY BELLAND
Plaintiff

v.

MR. MATACHINSKI et al.,
Defendants

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Civil Action No. 1:05-CV-1595

(Chief Judge Kane)

MEMORANDUM & ORDER

In consideration of Plaintiff's motion for continuance of trial term (Doc. No. 85), the Court deems it appropriate to briefly summarize the procedural background of this case.

On August 8, 2005, Belland, proceeding *pro se*, filed a complaint in this Court and requested leave to proceed *in forma pauperis*. From this point forward, the procedural history of the case has suffered multiple delays. After an extension of time, Defendants filed a four-paragraph answer with a single affirmative defense: "The Complaint fails to state a claim upon which relief can be granted." (Doc. No. 17.)

On June 5, 2006, Belland filed a motion for appointment of counsel, noting that trial would commence in September. (Doc. No. 33.) On August 11, 2006, counsel entered an appearance on Belland's behalf (Doc. No. 38) and promptly filed a motion to continue. (Doc. No. 39.)

Counsel for the parties indicated that they were still not ready for trial on February 23, 2007. (Doc. No. 46.) An extension was granted, and on March 1, 2007, Belland submitted a motion to remove the case from the trial list and to re-open discovery, which apparently had not begun. (Doc. No. 44.)

Almost two weeks after the second dispositive motion deadline passed, Defendants filed a motion for summary judgment. (Doc. No. 51.) Defendants neglected, however, to file either a

supporting brief, a statement of material facts as required by the local rules, or any exhibits; the Court deemed the motion withdrawn. (Doc. No. 52.)

Both Belland's counsel and Defendants' counsel filed additional motions for extension of time to file complete discovery and to file dispositive motions. (Doc. Nos. 55, 57, & 60.) Then, on January 22, 2008, Defendants filed a motion for summary judgment and supporting documents. (Doc. Nos. 63-66.) Belland filed a brief in opposition only after the Court issued a show cause order. (Doc. Nos. 67 & 68.) A motion in limine has since been filed and deemed withdrawn for failure to file supporting documents. (Doc. No. 84.)

Now, just over a week before trial, Plaintiff requests another continuance so that he may attain an expert witness to testify on his behalf at trial. (Doc. No. 85.) Because the Court appreciates that Plaintiff's counsel is working on a *pro bono* basis, and the Court trusts this *will be the final continuance* requested from either party, the motion will be granted.

AND NOW, on this 26th day of September, 2008, in consideration of the within Plaintiff's unopposed motion to continue trial term (Doc. No. 85), **IT IS HEREBY ORDERED THAT** the trial scheduled for October 6, 2008 is **CONTINUED** to January 5.

/s Yvette Kane

Yvette Kane, Chief Judge
United States District Court
Middle District of Pennsylvania